



**MISSOURI DEPARTMENT OF TRANSPORTATION
INFORMAL QUOTE GUIDELINES AND DOCUMENTATION
FOR PURCHASES FROM \$3,000.01 UP TO \$24,999.99**

THIS IS NOT AN ORDER

REQUEST FOR QUOTATION

It is the vendor's responsibility to read and comply with all conditions, specifications, and instructions outlined in this document. This document and any subsequent attachments shall supersede all confirmation forms, receipts, or any other paperwork needed to secure materials, equipment, or services.

TODAY'S DATE: AUGUST 25, 2008	QUOTE DUE BY (DATE AND TIME): AUGUST 28, 2008 @ 2:00 PM CENTRAL TIME	F.O.B. REQUIREMENTS: DESTINATION (SEE DELIVERY LOCATION(S) BELOW)
TO BE DELIVERED NO LATER THAN: SEPTEMBER 8, 2008	QUOTATION # D209-013-RM THIS QUOTATION # SHOULD BE REFERENCED ON ALL MAILING LABELS, ENVELOPES, AND ANY OTHER CORRESPONDENCE.	BUYER NAME: JUDY M. FRANKE, CPPB PHONE NUMBER: (660)-651-0022 CELLULAR (I WILL BE OUT OF THE OFFICE WEDNESDAY AND A PORTION OF THURSDAY MORNING, PLEASE USE MY CELLULAR # FOR INFORMATION CONCERNING THE BID) FAX: 660-385-1707
District Mailing Address: (RFQ responses MUST be faxed 660-385-1707, use of overnight service or hand delivered to the following address prior to the bid opening date and time listed above.) MoDOT - General Services (Procurement) Division 902 North Missouri Street Macon, MO. 63552		Delivery Location(s): See below.

ALL QUOTES SHOULD BE EXTENDED & TOTALED. DELIVERY TIME SHOULD BE LISTED

QTY	U/M	DESCRIPTION	MONTHLY LEASE PRICE WITH DELIVERY PRICE TO UNIONVILLE	MONTHLY LEASE PRICE TO BE PICKED UP BY MODOT
1	MO	One-month Lease of Excavator w/o operator meeting specifications outlined on pages 3-4. MoDOT District 2 will accept bids for the lease of an excavator meeting the above delivery date of September 8, 2008, or the earliest date of availability as listed on each bidder's returned quote form. MoDOT reserves the right to view and inspect any or all units submitted for this bid request, and make an award most advantageous to MoDOT based on unit condition, delivery date and pricing (see pages 2-3 for specific award criteria). List the following information for the unit: Make: _____ Model: _____ Year: _____ HP: _____ Available Bucket type/size _____ Hours: _____	\$_____ One Month \$_____ Freight (delivery and pick up) Delivery Date _____ <u>Unionville Lot</u> 2653 Main St., Unionville, MO 63565 Rt. 136-0.2 miles west of Rt. 5 E.	\$_____ One Month Pick Up Date _____ _____ Specify Pick up Location

VENDOR NAME:

(Please enter your company name in this block)

Award

For the District 2 One Month Lease Trackhoe Bid, low bid will be determined on a weighted scale of 100 points maximum. The bidder with the highest amount of points on a scale of 1 to 100 will be awarded the bid. The monthly lease rate will be considered at 65 points. Points for delivery options will be September 8th at 15 points, and 10 points for a delivery date of September 15th. If a unit is delivered by September 8th, the full 25 points for delivery will be issued. Ten points for unit condition based on good or poor. Here is the formula MoDOT will use to determine the points in each respective category.

- A) The monthly cost points shall be determined using a scale of 65 possible points and using the following formula:

$$\frac{\text{Lowest Responsive Price}}{\text{Compared Price}} \times 65 = \text{Cost score points}$$

- B) The required September 8th delivery time weighted 15 points. If a vendor is able to provide a machine within that timeframe they will receive the full 15 points, and automatically qualifies for the below 10 points received for the September 15th delivery date. If the vendor is unable to provide a machine within the September 8th timeframe they will receive 0 points. No additional points will be assigned for early deliver.
- C) The optional September 15th delivery time weighted 10 points. If a vendor is able to provide a machine within that timeframe they will receive the full 10 points. If the vendor is unable to provide a machine within that timeframe they will receive 0 points.
- D) The unit condition will be weighted at 10 points. If a MoDOT representative determines a unit is in good usable condition, and complies with the specifications listed below, the vendor will receive the full 10 points. If the unit is in poor condition or doesn't meet the below specifications, the vendor will receive 0 points.

*MoDOT may or may not choose to pick up the unit at the dealers specified location based on traveling distance versus dealer's freight cost listed on page 1. If the unit clearly costs MoDOT less by picking the unit up, per the pick up location listed, and the unit is in good working condition and meets all specifications and availability dates, then MoDOT reserves the right to choose a vendor based solely on total cost to MoDOT. The weighted criteria chart will be used for evaluating units of equal pricing categories (i.e. pick up a unit vs pick up a unit or delivered unit vs delivered unit).

To better illustrate how this works we are providing an example below. If two vendors or more are providing (a unit that is to be delivered) the below scale will be used. If two vendors or more are providing (a unit that is to be picked up within a cost effective range, to be determined by MoDOT) the below scale will be used to determine highest point value.

Award Criteria	Vendor	Vendor A Bid Response	Vendor A Points	Vendor B Bid Response	Vendor B Points
A	Monthly Lease Rate	3,000	54.17	2,500	65
B	Meet Availability Date for Delivery and/or Pick Up Option 9/8/08 (YES or NO)	YES	15	NO	0
C	Meet Availability Date for Delivery and/or Pick Up Option 9/15/08 (YES or NO)	YES	10	YES	10
D	Unit Condition (Good 10, Poor 0)	GOOD	10	GOOD	10
	POINT TOTALS		89.17		85

- The Calculation of the example presented in the table above is shown below.

Vendor A Bid Response Calculation

A) $\frac{2,500}{3,000} \times 65 \text{ (points)} = 54.17$

B) Vendor can meet September 8th delivery = 15 points

C) Vendor can meet a later date of Sept. 15th = 10 points

D) Unit condition is Good = 10 points

Vendor B Bid Response Calculation

A) $\frac{2,500}{2,500} \times 65 \text{ (points)} = 65.0$

B) **Cannot** meet Sept. 8th delivery = 0 points

C) Vendor can meet Sept. 15th delivery = 10 points

D) Unit condition is Good = 10 points

Notice to Proceed

In order to meet the aggressive time tables listed above, all efforts will be made to give verbal notification to proceed the day of the bid opening (August 28, 2008 @ 2:00 PM CT) upon all units being of same or equal criteria listed within this bid document. If a vendor considers their unit to have high hours for that model and year, where the unit might need viewed prior to award, please contact Dale Niece at 660-651-2490 cellular or 660-385-8261 office prior to the morning of August 28th.

BASE LEASE REQUIREMENTS

1.0 BASE LEASE

MoDOT will accept bids on used or new units. The unit delivered must be completely covered by a manufacturer's or lessor's warranty, which includes replacement/repair parts, labor and transportation costs for the entire length of the lease period. The complete units must be manufactured in accordance with the latest adopted OSHA or SAE Standards and amendments thereto. Parts and service availability **MUST** be within 24-48 hours of contact.

2.0 DELIVERY & INSPECTION

Delivery will be by appointment only to allow the MoDOT Area Mechanic to do a complete inspection of the unit, at which time; photos will be taken to document the condition of the machine. An official representative of the successful bidding company shall be present to participate in the inspection. If a unit has not been provided by the delivery deadline, the compensation due the lessor will be reduced at a rate of \$250.00 per day for all working days a unit is not available during the lease period. If this exceeds 10 working days, MoDOT reserves the right to obtain another unit from the next low bidder or other resources. At the end of the lease period when the unit is to be picked up, no unit will be released to a freight hauling company, unless the successful bidding company representative has properly inspected the unit in the presence of a MoDOT Area Mechanic. All costs associated with **delivery and pickup** of leased units is the responsibility of the lessor.

3.0 MAINTENANCE AND REPAIR

The department will furnish fuel, grease lubricant of chassis, and normal maintenance cleaning. The lessor will be responsible for all scheduled oil changes and periodic services required by manufacturer or lessor. The lessor shall furnish all necessary lubricants, replacement filters (oil, fuel, air filters, etc.), replacement/repair parts, labor and transportation. The lessor will supply MoDOT with the manufacturers and/or lessor's scheduled hourly maintenance chart(s), which MoDOT will use as a guide to contact lessor when unit needs serviced.

4.0 DOWNTIME

If the unit is unavailable for use for **more than 48-hours**, at any time, **the lessor must substitute a loan unit of mutually agreed upon type.** The substitute unit must be provided within 3 days after the initial 2 days of downtime has accrued, unless a MoDOT representative agrees to a more flexible arrangement offered by the lessor. If after this time a substitute unit has not been provided or the original unit has not been repaired, the compensation due the lessor will be reduced at a rate of \$250.00 per day for all working days a unit is not available during the lease period, including the initial downtime. If this exceeds 10 working days, MoDOT reserves the right to obtain another unit from the next low bidder or other resources. If such a unit is obtained, MoDOT reserves the right to terminate the original lease with the first vendor and will continue with the second vendor for the duration of the original lease period. All costs associated with delivery and pickup of leased units is the responsibility of the lessor.

5.0 VEHICLE DAMAGE

The department will be responsible for abuse or damage to the unit beyond normal expected wear and tear for highway maintenance operations. The maximum damage claim will be established at 75% of the manufacturers suggested retail price. A copy of the manufacturers suggested retail price is to be provided at the time of delivery and retained as part of the contract.

DISTRICT 2 EXCAVATOR SPECIFICATIONS

GENERAL - The intent of this specification is to secure and set forth the minimum requirements for a used or new current factory production model self-propelled, one operator, one engine, multipurpose track mounted hydraulic excavator designed to provide precise operator control for excavating, trenching, ditch cleaning, bank sloping, custom grading, breaking and tamping. Any deviations from these specifications must be detailed in writing and submitted with bids.

CAB - All steel, SAE ROPS fully enclosed with full height doors, sliding side and rear windows, shatter resistant, safety glass all around providing unrestricted operator visibility. Cab to have heat, defrosters and air conditioning. Seat will be fully adjustable suspension type with foam padded cushion and backrest. Appropriate restraints shall be provided with the seat/cab assembly. All controls for both upper and lower operation will be inside the cab providing ease of access for the operator. All instruments will be mounted to a panel[s] inside the cab or on the carrier and be readily visible to the operator. Unit shall have two [2] cab mounted front facing work lights and one cab mounted safety strobe light with 360-degree visibility. Rotation of cab shall be capable of complete 360-degree operability.

CONTROLS – Controls are to be SAE with a pattern changer. The controls for the Wrist-O-Twist shall be located in the handle.

STEERING CONTROL - provided thru rocker pedals with optional control thru hand levers.

ENGINE - Diesel powered, Turbocharged, minimum of four (4) cylinders with a minimum 105 horsepower at the flywheel under standard conditions, and not more than 160 horsepower to facilitate transportation to and from the project site. Engine equipment will include air cleaner, oil filter, fan, water pump, oil pump, fuel injection system, and engine protection system.

ELECTRICAL SYSTEM - Will be 24 volt with starter, alternator and battery [or batteries] as required for operation.

ROAD TRAVEL - Unit to be sized to be transported safely and securely on a 50 Ton Equipment trailer.

TRACKS - Shall be of a type to provide safe operation on dirt and on pavement. Tracks to be driven independently via auto shifting, two speed hydraulic motors using integral planetary drives, sized to the operating weight of the total machine.

BOOM AND BUCKET (S) – Unit shall be equipped with an articulating boom that swings or rotates with the cab. It shall have a minimum of reach of 27 feet and maximum of 30 feet at ground level front and a minimum digging depth of 17 feet flat bottom. Stick shall be at least 10' 2" long.

Please list the availability of bucket types and sizes available by September 8th on page one of this bid document.

ALARM SYSTEM - Horn shall be in accordance with any OSHA standards that apply and shall be distinguishable from surrounding noise.

FUEL – Unit shall be delivered with a full tank of fuel. MoDOT will be responsible for returning unit to vendor with a full tank of fuel.

Complete machine must be manufactured in accordance with latest adopted OSHA or SAE Standards and amendments.

MoDOT District 2 reserves the right to waive technicalities and to reject any or all bids and no bid is final until formally accepted by the District.

SPECIAL TERMS AND CONDITIONS

Liquidated Damages

In the event the successful Vendor fails to deliver the equipment within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the sum of two-hundred and fifty dollars (\$250.00) per day, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages. Saturdays, Sundays, holidays and days whereas the Department has suspended work shall not be assessable days.

Contract Options

The project MoDOT is working on in Putnam County is projected to take only 30-days (calendar days). In the case of adverse weather during this period, MoDOT reserves the right to lease the unit for additional days to be billed at a prorated rate based upon the original monthly unit price less freight (i.e. monthly price 3,000 / 30 = 100.00 daily price).

Pricing Guarantee

Pricing submitted shall be valid for a minimum period of thirty (30) days subsequent to the bid/quote/proposal closing date (or longer if specified by the contract terms herein). Submissions offering less than thirty (30) days from the closing date for acceptance by MoDOT will be considered non-responsive.

Certificate of Good Standing

The Bidder must be in compliance with the laws regarding conducting business in the State of Missouri. Within ten (10) business days of notification, the Bidder will need to provide a copy of his/her Missouri Secretary of State's "Certificate of Good Standing" prior to the issuance of any contract or initial purchase order by the Missouri Department of Transportation (MoDOT). MoDOT reserves the right, at its sole discretion, to extend the date this documentation must be provided. The Bidder's inability to provide this documentation will result in his/her bid being rejected.

RsMO 34.040.6 Compliance

The Bidder must be in compliance with the laws regarding conducting business in the State of Missouri. The Bidder should ensure they are in good standing with the Missouri Department of Revenue. Prior to award MoDOT staff will check with the Missouri Department of Revenue to ensure compliance with the provisions of RsMO 34.040.6. If necessary a "Certificate of No Tax Due" may be requested of the successful Bidder. If such a certificate is requested, the Bidder's inability to provide this documentation will result in his/her bid being rejected.

Information and Reports

The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Permits, Licenses and Safety Issues

The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies. The Contractor will comply with local laws involving safety in the prosecution of the work.

Legal Weights

Provisions of the Missouri Statutes relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in Sections 304.180 and 304.190 RsMO are understood and will be abided by. The Department will not accept loads, which exceed legal weights.

Cancellation of Contract

If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier, neglect or default.

If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract, to take over the completion of the work and arrange for the shipment of any materials or equipment necessary to complete the work and the Contractor/supplier will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

Environmental Issues

Attention of the bidder is invited to the Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519) and the necessity for compliance if applicable.

The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RsMO 1986 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

BY (signature required): _____

Federal Tax I.D. #: _____ if no Federal Tax I.D. # - list Social Security #: _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

VENDOR NOTES

Missouri Department of Transportation purchase orders must be issued to the invoicing company/address. If the invoicing company/address will be different from that listed in the vendor information section (below), the vendor should specify the "remit to" company/address in the vendor notes section (above).

VENDOR INFORMATION

Vendor Name/Mailing Address:	Vendor Contact Information (including area codes):
	Phone #:
	Cellular #:
Email Address:	Fax #:
Printed Name and Title of Responsible Officer or Employee:	Signature:
Is your company registered/certified with the State of Missouri as a (please circle):	
MINORITY BUSINESS ENTERPRISE (MBE) ? YES NO	
WOMEN BUSINESS ENTERPRISE (WBE) ? YES NO	
Would your company like information on becoming a registered/certified MBE/WBE vendor? YES NO	

All responses to this Request For Quotation should be submitted on this form and ALL pages should be returned to the Buyer listed above at the fax number shown above.

Note: If any of the "Standard Solicitation Provisions" and "General Terms and Conditions" on the following pages conflict with the requirements outlined in this Request For Quotation, the RFQ requirements will supersede those below.

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order.

- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by a showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state purchasing card.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy their current Authority Certificate from the Secretary of State of the State of Missouri.
 - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.
- d. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RsMO. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RsMO. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
 - 1) If attached, the document entitled "**PREFERENCE IN PURCHASING PRODUCTS**" must be completed and returned with the solicitation documents.
 - 2) If attached, the document entitled "**MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT**" must be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more**
- c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

- a. No provision in the contract shall be construed, expressly or implied a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matter.

Indemnification

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligation under this Agreement.

THANK YOU

DATE: _____

FROM: _____ (Company Name)

_____ (Mailing Address)

_____ (City, State, Zip Code)

_____ (Phone #)

_____ (Fax #)

() Product or service is not available or cannot meet the required specifications

() Other obligations – cannot make required deadline

() The delivery point or work location is outside of our territory or coverage/service area

() Other – Please explain below:

Company Contact Person: _____ Email Address: _____

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